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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Armenia, Bangladesh, Brazil, Burkina Faso, Cape Verde, Chile, Cuba, El Salvador, Guatemala, Mauritius, Mexico, Morocco, Philippines and Uruguay: draft resolution

Protection of migrants

The General Assembly,

Recalling its resolution 56/170 of 19 December 2001,

Reaffirming that the Universal Declaration of Human Rights[1] proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Reaffirming also the provisions concerning migrants adopted by the World Conference on Human Rights,[2] the International Conference on Population and Development,[3] the World Summit for Social Development[4] and the Fourth World Conference on Women,[5]

Welcoming the provisions on the human rights of migrants contained in the Durban Declaration and Programme of Action[6] adopted by the World Conference

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[1] Resolution 217 A (III).

[2] See A/CONF.157/24 (Part I), chap. III.

[3] See *Report of the International Conference on Population and Development, Cairo, 5-13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex.

[4] See *Report of the World Summit for Social Development, Copenhagen, 6-12 March 1995* (United Nations publication, Sales No. E.96.IV.8), chap. I, resolution 1, annexes I and II.

[5] See *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

[6] See A/CONF.189/12, chap. I.

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against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001, and expressing its satisfaction at the important recommendations made for the development of international and national strategies for the protection of migrants and for the design of migration policies that fully respect the human rights of migrants,

Recalling its resolution 40/144 of 13 December 1985, by which it approved the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live,

Recognizing the positive contributions that migrants frequently make, including through their eventual integration into their host society,

Bearing in mind the situation of vulnerability in which migrants and their families frequently find themselves, owing, inter alia, to their absence from their States of origin and to the difficulties they encounter because of differences of language, custom and culture, as well as the economic and social difficulties and obstacles to the return to their States of origin of migrants who are non-documented or in an irregular situation,

Bearing in mind also the need for a focused and consistent approach towards migrants as a specific vulnerable group, in particular migrant women and children,

Deeply concerned at the manifestations of violence, racism, xenophobia and other forms of discrimination and inhuman and degrading treatment against migrants, especially women and children, in different parts of the world,

Underlining the importance of the creation of conditions that foster greater harmony between migrants and the rest of the society of the States in which they reside, with the aim of eliminating the growing manifestations of racism and xenophobia perpetrated in segments of many societies by individuals or groups against migrants,

Taking note of Advisory Opinion OC-16/99, issued by the Inter-American Court of Human Rights on 1 October 1999, on The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law, in the case of foreign nationals detained by the authorities of a receiving State,

Encouraged by the increasing interest of the international community in the effective and full protection of the human rights of all migrants, and underlining the need to make further efforts to ensure respect for the human rights and fundamental freedoms of all migrants,

Welcoming the fact that a number of States have already ratified the United Nations Convention against Transnational Organized Crime,[7] and the protocols thereto,[8] and reiterating the importance of ensuring the speedy entry into force of those instruments in accordance with General Assembly resolutions 55/25 of 15 November 2000 and 55/255 of 31 May 2001,

1. *Welcomes* the renewed commitment made in the United Nations Millennium Declaration[9] to take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the

[7] Resolution 55/25.

[8] Ibid., annexes I and II.

[9] Resolution 55/2.

increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies;

2. *Requests* all Member States, in conformity with their respective constitutional systems, effectively to promote and protect the human rights of all migrants, in conformity with the Universal Declaration of Human Rights[1] and the international instruments to which they are party, which may include the International Covenants on Human Rights,[10] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[11] the International Convention on the Elimination of All Forms of Racial Discrimination,[12] the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,[13] the Convention on the Elimination of All Forms of Discrimination against Women,[14] the Convention on the Rights of the Child[15] and other applicable international human rights instruments;

3. *Calls upon* States to implement fully the provisions related to the promotion and protection of the human rights of migrants contained in the Durban Declaration and Programme of Action;[6]

4. *Strongly condemns* all forms of racial discrimination and xenophobia with regard to access to employment, vocational training, housing, schooling, health services and social services, as well as services intended for use by the public, and welcomes the active role played by governmental and non-governmental organizations in combating racism and assisting individual victims of racist acts, including migrant victims;

5. *Requests* all States, in conformity with national legislation, firmly to prosecute cases of violation of labour law with regard to the conditions of work of migrant workers, including those related to, inter alia, their remuneration and the conditions of health and safety at work;

6. *Calls upon* all States to review and, where necessary, revise immigration policies with a view to eliminating all discriminatory practices against migrants and to provide specialized training for government policy-making and law enforcement, immigration and other concerned officials, thus underlining the importance of effective action to create conditions that foster greater harmony and tolerance within societies;

7. *Reiterates* the need for all States parties to protect fully the universally recognized human rights of migrants, especially women and children, regardless of their legal status, and to treat them humanely, in particular with regard to assistance and protection;

8. *Reaffirms emphatically* the duty of States parties to ensure full respect for and observance of the Vienna Convention on Consular Relations of 1963,[16] in particular with regard to the right of foreign nationals, regardless of their immigration status, to communicate with a consular official of their own State in the

[10] Resolution 2200 A (XXI), annex.
[11] Resolution 39/46, annex.
[12] Resolution 2106 A (XX), annex.
[13] Resolution 45/158, annex.
[14] Resolution 34/180, annex.
[15] Resolution 44/25, annex.
[16] United Nations, *Treaty Series*, vol. 596, No. 8638.

case of detention, and the obligation of the State in whose territory the detention occurs to inform the foreign national of that right;

9. *Reaffirms* the responsibility of Governments to safeguard and protect the rights of migrants against illegal or violent acts, in particular acts of racial discrimination and crimes perpetrated with racist or xenophobic motivation by individuals or groups, and urges them to reinforce measures in this regard;

10. *Urges* all States to adopt effective measures to put an end to the arbitrary arrest and detention of migrants, including by individuals or groups;

11. *Takes note* of the interim report of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants[17] and requests her to continue taking into account the recommendations contained in the Durban Declaration and Programme of Action[6] in the performance of her mandate, tasks and duties;

12. *Encourages* Member States that have not yet done so to enact domestic criminal legislation to combat the international trafficking of migrants, which should take into account, in particular, trafficking that endangers the lives of migrants or includes different forms of servitude or exploitation, such as any form of debt bondage or sexual or labour exploitation, and to strengthen international cooperation to combat such trafficking;

13. *Encourages* States to consider participating in international and regional dialogues on migration that include countries of origin and destination, as well as countries of transit, and invites them to consider negotiating bilateral and regional agreements on migrant workers in the framework of applicable human rights law and designing and implementing programmes with States of other regions to protect the rights of migrants;

14. *Encourages* all Governments to remove obstacles that may prevent the safe, unrestricted and expeditious transfer of earnings, assets and pensions of migrants to their country of origin or to any other countries, in conformity with applicable legislation, and to consider, as appropriate, measures to solve other problems that may impede such transfers;

15. *Welcomes* immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious and tolerant environment, and encourages States to consider the possibility of adopting these types of programmes;

16. *Calls upon* all States to protect the human rights of migrant children, in particular unaccompanied migrant children, ensuring that the best interests of the children and the importance of reuniting them with their parents, when possible and appropriate, are the paramount consideration, and encourages the relevant United Nations bodies, within the framework of their respective mandates, to pay special attention to the conditions of migrant children in all States and, where necessary, to put forward recommendations for strengthening their protection;

[17] A/57/292.

17. *Welcomes* the proclamation of 18 December as International Migrants Day and the invitation to Member States and intergovernmental and non-governmental organizations to observe it through, inter alia, the dissemination of information on the human rights and fundamental freedoms of migrants and on their economic, social and cultural contributions to their host and home countries, the sharing of experience and the design of actions to ensure their protection;

18. *Requests* the Secretary-General to submit to the General Assembly at its fifty-eighth session a report on the implementation of the present resolution under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms", and requests the Special Rapporteur to submit to the Assembly at its fifty-eighth session an interim report on the fulfilment of her mandate.